

Paul J. Graf
Group Attorney
Transportation Systems & Industrial Group

EVANS
PRODUCTS COMPANY

The East Tower
2550 Golf Road
Rolling Meadows, Illinois 60008

Telephone 312/640-7000

13174
RECORDATION NO. 13174 Filed 1425

JUL 6 1981 - 1 10 PM

June 30, 1981

INTERSTATE COMMERCE COMMISSION
RECORDATION NO. 13174 Filed 1425

JUL 6 1981 - 1 10 PM

Mrs. Mildred Lee
Secretary
Interstate Commerce Commission
Office of the Secretary
Washington, DC 20423

1-187A065
JUL 6 1981
Date
Fee \$ 170.00
ICC Washington, D. C.

RE: Recordation of Lease and Supplement Agreement between United States
Railway Equipment Company^{CO} and Chicago & Illinois Midland Railway
Company. 231 S. La Salle St
Chicago 4. Ill

Dear Mrs. Lee:

I have enclosed four sets of each document, Lease and Supplement Agreement
for the above referenced. On June 17 I sent you a check in the amount
of \$120.00 for the agreements. I am sending you an additional \$50.00 for
the Lease Agreement that was not included previously for Chicago & Illinois
Midland Railway Company.

Please feel free to call if you have any further questions regarding this
matter.

Very truly yours,

Paul J. Graf

Paul J. Graf

PJG:sm

Enclosure

RECEIVED
JUL 6 1 04 PM '81
FEE OPERATION BR.

~~JUL 4 1981 1 10 PM~~

JUL 6 1981 1 10 PM

This lease, ~~INTERSTATE COMMERCE COMMISSION~~ INTERSTATE COMMERCE COMMISSION this 18th day of January, 1960

between the United States Railway Leasing Co., a division of the United States Railway Equipment Co., an Illinois Corporation, (hereinafter called the "Owner") and Chicago & Illinois Midland Railway Company, an Illinois corporation, (hereinafter called the "Lessee").

W I T N E S S E T H:

In consideration of the mutual promises hereinafter set forth, the parties hereto agree as follows:

1. The Owner agrees to furnish to the Lessee one (1) 50-ton capacity covered hopper car constructed for the handling of pre-dried sand as per Lessee's specifications.
2. The Owner hereby lets to the Lessee and the Lessee hereby rents from the Owner the said one (1) covered hopper car, identified as C&IM and numbered 2005. The car will be painted and stenciled as requested by Lessee, which is hereinafter called the "Car" and for a term to commence as to such Car on the date of delivery by Owner or its Agent to Lessee at Owner's plant, Blue Island, Illinois and to expire ten (10) years from date of delivery thereof, except as otherwise provided herein.
3. The Owner or its Agent will deliver said Car to the Lessee not later than April 1960. The Lessee will cause its inspector to inspect and accept or reject said Car at point of delivery and upon acceptance, will issue and deliver to the Owner a certificate of acceptance stating that the Car covered by such certificate has been inspected and accepted on behalf of the Lessee in the attached form marked Exhibit No. 1.
4. From and after the delivery of the Car by the Owner to the Lessee under the terms and conditions of this lease agreement, the Lessee, so long as it shall not be in default under this lease agreement, shall be entitled to the possession of the Car and

The use thereof on its own line of railroad and upon other railroads in the usual interchange of traffic for the full term of the lease. The Lessee may receive such compensation for such use from any corporation so using the Cars as the Lessee may determine, provided however, that the right of such use shall be subject to all the terms and conditions of this lease agreement.

5 (a) The Lessee shall pay to the Owner or its Assignees the rental of seventy-five dollars (\$75.00) per Car per calendar month during the original term hereof which shall consist of one hundred twenty (120) calendar months following the commencement of this lease as above provided on the fifteenth (15th) day of each month succeeding the month for which such rental accrued. All such payments shall be made in Chicago funds by the Lessee to the Owner at the Owner's office, located at 231 South LaSalle Street, Chicago 4, Illinois.

(b) Unless in default, the Lessee shall have the option to extend the original term as to said Car by notifying the Lessor in writing at least ninety (90) days prior to the end of the original term. Such extension with respect to said Car shall be for a one (1) year period from the date of the end of the original term and shall automatically continue from year to year thereafter without further act by either of the parties hereto until the termination of the lease with respect to said car in the manner herein provided: Provided, however, that such extensions shall not continue beyond ten (10) years from the date of the end of the original term.

The term "Original Term" as used herein, shall mean the term expiring ten (10) years from the date of acceptance by Lessee; the term "Extended Term" as used herein, shall mean as to the Car for the extension, if any, of the original term. The term "Full term" as used herewith, shall mean as to each car, the original term and the extended term.

The rental during such extended term shall be twenty-five dollars (\$25.00) per car per calendar month, payable on the 15th day of each month succeeding the month on which such rental accrued. During such extended term the lease shall be cancellable by Lessee on thirty (30) days written notice. During such renewal term, all provisions of this lease shall remain in full force and effect and the daily rate wherever such rate appears in this lease shall be twenty-five dollars (\$25.00) per car per calendar month, instead of the seventy-five dollars (\$75.00) per car per calendar month.

6(a) Should the installation of any device on or to the car be made mandatory by the ICC or the AAR, such installation shall be made by Lessee at its own cost and expense.

(b) Should the installation of any device or apparatus be made by the Lessee in accordance with Paragraph 6 (a) the Lessee hereby agrees to indemnify, protect and save harmless the Owner from all claims, demands, damages, including royalties, judgments, including court costs, attorney's fees and expense in any way arising out of or on account of the use of any patented inventions regarding any such device or apparatus, incorporated in any of the Cars under paragraph 6 (a) above.

7. During the continuance of this Lease the Lessee shall:

(a) Promptly pay all sales, use, ad valorem or other taxes, assessments and other governmental charges levied or assessed upon the interest of the Lessee in the Car or any thereof or upon the use or operation thereof or the earnings arising therefrom exclusive however of income, gross receipts, excess profits and similar taxes of Owner; and will promptly pay or reimburse the Owner for all sales, use, ad valorem or other taxes, assessments and other governmental charges levied or assessed against the Owner on account of the use or operation thereof or on account of the earnings arising therefrom, exclusive however of income, gross receipts, excess profits and similar taxes of Owner; but inclusive of any such tax on rentals which is in substitution for, or relieves the Lessee from the payment of taxes which it would otherwise be obligated to pay or reim-

burse as hereinbefore provided, but the Lessee shall not be required to pay the same so long as it shall in good faith and by appropriate legal or administrative proceedings contest the validity or amount thereof unless thereby, in the judgment of the Owner, the rights or interests of the Owner will be materially endangered.

(b) Use the Car in a careful and prudent manner:

(c) Promptly discharge any legal process which may be levied upon the Car in any action other than one against the Owner or its Assignee:

(d) Each side of the Car will be plainly, distinctly, permanently and conspicuously marked in stencil with the following legend in letters three-quarters inch (3/4") in height:

PROPERTY OF UNITED STATES RAILWAY LEASING CO.
a Division of
UNITED STATES RAILWAY EQUIPMENT CO.
OWNER AND LESSOR

and Lessee shall immediately replace any such stenciling which may be removed, destroyed or become illegible, wholly or in part, stencils to be used to be furnished by the Owner, at its own cost and expense:

(e) Subject to other provisions of this lease, keep the Car in usable condition during this lease and satisfactory for service on its lines, ordinary wear and tear excepted, and satisfactory for interchange in accordance with the Association of American Railroads' rules and all at its own cost and expense. The provisions of this subparagraph (e) shall not require the Lessee to keep the Car in better order or better state of repair than when delivered to it by the Owner, but any necessary repairs occasioned by ordinary wear and tear to continue the Car in interchange service in accordance with Association of American Railroads' rules shall be at the expense of the Lessee;

(f) Comply with all laws and regulations of any governmental authority with reference to the manner of using or operating the car;

(g) Indemnify and save the Owner and any Assignee of the Owner, harmless from any and all liabilities, damages, claims, suits judgments and costs that may arise from the use or operation of the Car.

(h) Keep the car free from an encumbrances or liens which may be a cloud upon or otherwise affect the Owner's title arising out of any act or omission of Lessee or failure of Lessee to comply with the provisions of this lease agreement.

(i) Except for numbering and stenciling as provided herein, keep the Car free from any marking or labeling which might be interpreted as a claim of ownership thereof by the Lessee or any other person, association or corporation other than the Owner and will not change, or permit to be changed, the identifying road number of the car;

(j) At least once every year furnish to the Owner an accurate written inventory of the Car in service.

(k) Allow the Owner at its own cost and expense to inspect the Car at any reasonable time or times whether on the road of the Lessee or elsewhere.

3.(a) In the event of loss, theft, destruction or irreparable damage to said car during the original term from any cause whatsoever, the Lessee shall pay, and this lease shall terminate in respect to such car on the date of payment by the Lessee to the Lessor the greater of the following two amounts:

(i) A sum equal to the settlement basis provided by the Association of American Railroad Rules;

(ii) An amount in cash equal to the present value of the total remaining rental for such Car which would otherwise accrue during the original term from the date of such payment to the last day of such term, plus the net scrap value as hereinafter defined for such Car. To determine the present value of such total remaining

rental, the rental shall be discounted on a 4-3/4% per annum basis (compounded quartly) from the date of such payment to the end of the original term.

(b) In the event of loss, theft, destruction or irreparable damage to said Car during the extended term of the Lease from any cause whatsoever, the Lessee shall pay, and this lease shall terminate in respect to said Car on the date of payment by the Lessee to the Lessor of, the greater of the following two amounts:

(i) A sum equal to the settlement basis provided by the Association of American Railroads' Rules.

(ii) The net scrap value of such Car.

In the event of destruction or irreparable damage to said Car at any time, the Lessee shall notify the Lessor in writing of such fact, not more than fifteen days prior to payment therefor.

The net scrap value shall mean an amount in cash equal to the amount determined by multiplying (i) the quoted price per long ton of #1 heavy railroad melting steel scrap prevailing in Chicago, Illinois as published in IRON AGE on the first business day of the month in which payment of net scrap value is required to be made by 25 ton. (twenty five ton)

In the event of loss, theft, destruction or irreparable damage to said car when off the line of the Lessee, the Lessor hereby authorizes the Lessee to make settlement pursuant to Association of American Railroads' Rules for the account of the Lessor with the foreign line upon whose railroad such Car may have been so lost, stolen, destroyed or damaged, but no such settlement shall absolve the Lessee from its obligation to pay to the Lessor the required amount specified in sub-paragraphs 3 (a) or 3(b)

9. Any and all replacements of any parts of said Car and all additions thereto shall constitute accessions to the Car, shall be and remain the property of the Lessor, and be subject to all the terms and conditions of this Lease and be included in the term "Car" as used in this Lease. Lessee shall comply with all laws and regulations of any state or governmental authority, and with the Interchange

Rules, respecting the manner of using or operating the Car, during the term of this Lease and in case any equipmet or appliance is required to be installed on such Car in order to comply with such laws, regulations and rules, the Lessee agrees to make such changes, additions and replacements without cost or expense to Lessor, Lessee shall also have the right, without cost or expense to Lessor, to make any other replacement, charge, substitution or addition of any equipment or appliance on said Car, providing that the value of said Car is not thereby lessened, but any parts installed or replacements made by Lessee upon said Car shall be considered as accessions to said Car and title thereto shall immediately vest in Lessor. The Lessee hereby agrees to indemnify, protect and save harmless the Lessor, any assigns or any party or parties on behalf of whom such assignee is acting, from all claims, demands, damages, including royalties, judgments and including court costs, attorneys' fees and expenses in any way arising out of or on account of the use of any appended inventions regarding any such device or apparatus incorporated in said Car.

10. Upon expiration of this lease, the Lessee shall surrender said Car to the Owner at Owner's plant freight charges prepaid, located at Blue Island, Illinois, in condition satisfactory for interchange under Association of American Railroads' Rules as they exist at the date of expiration of this Lease. Upon arrival of said Car at Owner's plant, rental shall cease immediately.

11. Upon the happening of any of the events of default as hereinafter defined the Owner or its Assignees may then or at any time thereafter, take possession of such Car and the accessions thereto wherever same may be found, and, Lessee agrees to promptly surrender possession of such Car. The Owner may also declare the Lease terminated and may, but need not, relet the Car to others for the account and benefit of the Lessee for such rent and upon such terms and to such person or persons and for such period or periods as may seem fit to the Owner, but the Owner shall not be required to accept or receive any lessee offered by Lessee or do any act whatsoever

in or about the procuring of another lessee to mitigate the damages of Lessee or otherwise. The acceptance of a lessee by the Owner in place of the Lessee herein, shall not operate as a cancellation of this indenture, or to release Lessee from the performance of any covenant, promise or agreement herein contained. The Owner shall apply the proceeds of such reletting first to the expense that may be incurred in the retaking and delivery of the Car to the new Lessee or lessees, then to the payment of the rent due under this lease, and the Lessee shall remain liable for any rents remaining due after so applying the proceeds so realized, and the Lessee covenants and agrees to pay said deficit monthly as the same may accrue. The Owner may also proceed by way of any other remedy allowed to them by law, and it is expressly understood and agreed that the pursuit of any one remedy by the Owner shall not be considered as an election by the Owner to abandon any remaining remedies, but all remedies available to the Owner may be exercised singly, consecutively or concurrently.

12. The happening of any of the following events shall be considered an "event of default" hereunder:

(a) nonpayment by the Lessee within thirty (30) days after the same becomes due of any installment of rental hereunder:

(b) failure of the Lessee to comply with or perform any of the other terms and conditions of this agreement within thirty (30) days after written notice from the Owner, demanding compliance therewith and performance thereof;

(c) the appointment of a receiver or trustee in bankruptcy or any other proceeding for the Lessee or for any of its property and the failure by such receiver or trustee to adopt and assume and to agree to perform the obligations of the Lessee hereunder within thirty (30) days after such appointment.

13. The Lessee shall from time to time do and perform any other act, and execute, acknowledge, deliver, file, register and record any and all further instruments required by law or requested by the Owner for the purpose of protecting the Owner's title and rights

or for the purpose of carrying out the intention of this agreement and the Lessee will promptly furnish to the Owner certificates or any other evidence of all such filing, registering and recording in form satisfactory to the Owner, the Owner shall promptly reimburse the Lessee for any out-of-pocket expense it may so incur.

14. The Owner shall indemnify, protect and save harmless the Lessee from all claims, demands, damages, including royalties, judgments, (including court costs) attorney's fees, and expense in any way arising out of or on account of the use of any or all patented inventions employed in or about the construction, repair, alterations, or improvements of the Car or any part thereof, which are incorporated in said Car at the inception of this lease.

15. The Lessee shall not assign this lease without the written consent of the Owner provided however, that this lease shall attach to and run with the Lessee's railroad during the term hereof and Lessee may assign the rights herein granted to it in connection with and as a part of its railroad, and in such event the provisions hereof shall inure to the benefit of Lessee's successors and assigns.

16. The terms of this lease agreement and all rights and obligations hereunder shall be governed by the laws of the State of Illinois, in which state it has been executed and delivered.

17. Any written notice required hereunder shall be proper when sent by United States registered mail addressed to Lessee Chicago & Illinois Midland Railway Company, Illinois Building, Springfield, Illinois or such other address as it shall request in writing or to Owner, United States Railway Equipment Co., 231 S. La Salle Street, Chicago 4, Illinois, or such other address as it shall request in writing.

ATTEST

L. S. Kape
Secretary

UNITED STATES RAILWAY LEASING CO.
a Division of
UNITED STATES RAILWAY EQUIPMENT CO.

BY E. England
Executive Vice President

ATTEST

Charles D. Baxter
Secretary

CHICAGO & ILLINOIS MIDLAND RAILWAY COMPANY

BY [Signature]
President

EXHIBIT 1

CHICAGO & ILLINOIS MIDLAND RAILWAY CO.

CERTIFICATE OF INSPECTION & ACCEPTANCE

1960

United States Railway Leasing Co.,
A Division of
United States Railway Equipment Co
231 South La Salle Street
Chicago 4 Illinois

Gentlemen:

The undersigned Inspector of Chicago & Illinois Midland Railway Company (hereinafter referred to as Lessee) hereby certifies that he has made a thorough examination of one (1) 50-ton capacity covered hopper car bearing number as follows:

and hereby accepts said car for the Lessee pursuant to a lease agreement between the United States Railway Leasing Co., a Division of United States Railway Equipment Co. (as Lessor) and the Lessee, dated January 18, 1960, that said car is plainly marked in stencil with the words

PROPERTY OF UNITED STATES RAILWAY LEASING CO.
a Division of
UNITED STATES RAILWAY EQUIPMENT CO.
OWNER AND LESSOR

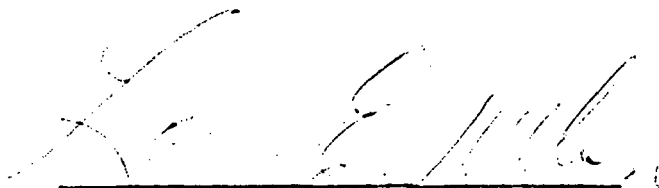
in readily visible letters not less than three-quarters inch (3/4") in height; and that each of said car conforms to United States Safety Appliance Standards, and fully complies with the terms of said lease agreement dated January 18, 1960 and that said car conforms to the quality and condition satisfactory to the Lessee.

Inspector
CHICAGO & ILLINOIS MIDLAND RAILWAY CO.

STATE OF ILLINOIS)
) ss
COUNTY OF COOK)

On this 9th day of January 1960, before me personally appeared Edward J. England to me personally know, who being by me duly sworn, says that he is Executive Vice-President of the United States Railway Leasing Co., a division of the United States Railway Equipment Co., that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation, by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

(NOTARIAL SEAL)



My Commission Expires October 10, 1962

STATE OF ILLINOIS)
)
COUNTY OF SANGAMON) SS

On this 1st day of February 1960, before me personally appeared J. E. DARE to me personally known, who being by me duly sworn, says that he is President of Chicago & Illinois Midland Railway Company, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

J. O. Minnis